

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

JENNIFER YUSUPOVA and  
JONATHAN YUSUPOVA,  
Infants by their Mother and Natural  
Guardian, LIYA YUSUPOVA,  
LEYA YUSUPOVA, Individually,  
and DAVID L. YUSUPOVA,

Plaintiffs,

-against-

GERBER METAL SUPPLY COMPANY,  
and PATRICK S. IANIRO,

Defendants.

AMON. J.

MANN, M.J.

Notice of Removal

FILED  
IN CLERK'S OFFICE  
U.S. DISTRICT COURT E.D.N.Y.

JUN 11 2003

★ BROOKLYN OFFICE ★

CV 03 2902

The Notice of Removal, by the defendants, alleges:

1. On or about May 23, 2003 an action was commenced against the defendants by THE filing of the summons and complaint in the Supreme Court of the State of New York, County of Kings, entitled *Jennifer Yusupova, et. al. v. Gerber Metal Supply Company and Patrick S. Ianiro*, index number 19292/03. Copies of the summons and complaint are attached as Exhibit A.

2. The above-described action is one in which this Court has original jurisdiction under diversity of citizenship, 28 U.S.C. § 1332, as one which may be removed to this Court, pursuant to 28 U.S.C. § 1441(a), in that it is a civil action, the matter in controversy exceeds the sum of \$75,000, exclusive of costs and interest, and is between citizens of different states.

3. At the time the action was commenced, and continuing to the present time, the **plaintiff**, Jennifer Yusupova, resides and is domiciled in Brooklyn, **New York**.

4. At the time the action was commenced, and continuing to the present time, the **plaintiff**, Jonathan Yusupova, resides and is domiciled in Brooklyn, **New York**.

5. At the time the action was commenced, and continuing to the present time, the **plaintiff**, Liya Yusupova, resides and is domiciled in Brooklyn, **New York**.

6. At the time the action was commenced, and continuing to the present time, the **plaintiff**, David Yusupova, resides and is domiciled in Brooklyn, **New York**.

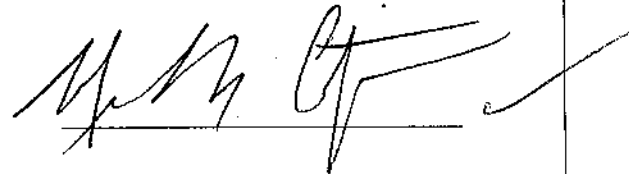
7. At the time the action was commenced, and continuing to the present time, the **defendant**, Gerber Metal Supply Company, is a **New Jersey** corporation with its principal place of business in **New Jersey**.

8. At the time the action was commenced, and continuing to the present time, the **defendant**, Patrick S. Ianaro, resides and is domiciled in **New Jersey**.

9. This Notice of Removal is being filed within thirty (30) days of any defendant being served with the initial pleading—the summons and complaint.

WHEREFORE, the defendants request that the above-described action pending in Supreme Court of the State of New York, County of Kings, be removed to this Court.

Dated: June 10, 2003

A handwritten signature in black ink, appearing to read 'Michael N. Cotignola', written over a horizontal line.

**Michael N. Cotignola**  
(MC 3523)  
Attorney for Defendants  
108 Greenwich St. – 5<sup>th</sup> Floor  
New York, NY 10006  
(212) 732-6607

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF KINGS

-----X  
JENNIFER YUSUPOVA and JONATHAN  
YUSUPOVA, Infants by their Mother and Natural  
Guardian, LIYA YUSUPOVA and LIYA  
YUSUPOVA, Individually, and DAVID L.  
YUSUPOV

Plaintiff,

-against-

GERBER METAL SUPPLY COMPANY and  
PATRICK S IANIRO,

Defendants,  
-----X

ant(s)

Kings County Clerk's Office  
Paym #719663# 05/23/2003 12:48p  
Tr#833855# \$185.00 \$185.00  
Other  
19292/2003 YUSUPOVA, JENNIFER E

722682 Check \$185.00  
Change: \$0.00

May 13, 2003

Defendants Address:

IANIRO: 203 STEPHEN WAY, HILLS BOROUGH, NEW JERSEY 08844  
GERBER: TWO BOUNDARY ROAD, SOMERVILLE, N.J. 08876

LAW OFFICES OF  
ILYA Z. KLEYNERMAN  
Attorney for Plaintiff(s)  
Post Office Address  
1075 Bay Ridge Avenue  
Brooklyn, New York 11219  
(718) 759-1909

INDEX # 19292/03  
FILED WITH  
CLERK ON 5/23/03

Plaintiff designates  
KINGS COUNTY  
as the place of trial

The basis of venue is  
Plaintiff's residence

**SUMMONS**

Plaintiff resides at  
130 Bay 7<sup>th</sup> Street  
Brooklyn, New York

**REBY SUMMONED** to answer the complaint in this action  
swer, or, if the complaint is not served with this summons,  
; on the Plaintiff's Attorney(s) within 20 days after the  
sive of the day of service (or within 30 days after the  
nons is not personally delivered to you within the State of  
r failure to appear or answer, judgment will be taken  
elief demanded in the complaint.

RECEIVED  
KINGS COUNTY CLERK  
2003 MAY 23 PM 12:42

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF KINGS

-----X  
JENNIFER YUSUPOVA and JONATHAN  
YUSUPOVA, Infants by their Mother and  
Natural Guardian, LIYA YUSUPOVA,  
and DAVID ~~L~~ YUSUPOVA,

VERIFIED COMPLAINT

Plaintiffs,

-against-

GERBER METAL SUPPLY COMPANY and  
PATRICK S IANIRO,

Defendants,  
-----X

Plaintiffs, complaining of the defendants by their attorney ILYA Z.  
KLEYNERMAN, respectfully shows this Court and alleges:

**AS AND FOR A FIRST CAUSE OF ACTION ON  
BEHALF OF PLAINTIFF, LIYA YUSUPOVA**

**FIRST:** At all times hereinafter mentioned, and on or about the 21ST day  
of March, 2002 Plaintiff, LIYA YUSUPOVA, was and still is a resident in the County of  
Kings, City and State of New York.

**FIRST A:** At all times hereinafter mentioned, and on or about the 21ST day  
of March, 2002 infant plaintiff, JENNIFER YUSUPOVA, was and still is a resident in  
the County of Kings, City and State of New York.

**FIRST B:** At all times hereinafter mentioned, and on or about the 21<sup>st</sup> day of  
March, 2002 infant plaintiff, JONATHAN YUSUPOVA, was and still is a resident in the  
County of Kings, City and State of New York.

**SECOND:** Upon information and belief, and at all times hereinafter  
mentioned, Defendant, PATRICK S IANIRO, was and still is a resident of Somerville  
County, State of New Jersey.

**THIRD:** Upon information and belief, and at all times hereinafter  
mentioned, Defendant, GERBER METAL SUPPLY COMPANY, maintained it's  
principal place of business at Two Boundry Road, Somerville, New Jersey 08876.

**FOURTH:** Upon information and belief, and at all times hereinafter mentioned, the defendant, PATRICK S IANIRO, was the operator of a 1987 Mac Truck motor vehicle bearing New Jersey State Registration Plate Number AB674T on March 21, 2002.

**FIFTH:** Upon information and belief, and at all times hereinafter mentioned, the defendant, GERBER METAL SUPPLY COMPANY, was the owner of a 1987 Mac Truck motor vehicle bearing New Jersey State Registration Plate Number AB674T on March 21, 2002.

**SIXTH:** Upon on information and belief, and at all times hereinafter mentioned, the plaintiff, LIYA YUSUPOVA, was the operator of 2002 Nissan bearing New York State Registration Plate Number BDH6794 on March 21, 2002.

**SEVENTH:** That at all times hereinafter mentioned, the accident occurred on the date described below, in the State of New York, in the location described below, on a public highway much used and traveled by the general public:

**DATE:** MARCH 21, 2002

**LOCATION:** AVENUE P APPROXIMATELY 50 FEET WEST OF  
OCEAN PARKWAY, BROOKLYN, NEW YORK

**EIGHTH:** That on or about March 21, 2002 the defendant, PATRICK S IANIRO, and plaintiff, LIYA YUSUPOVA, were operating their respective motor vehicles at the aforesaid location.

**NINTH:** That the accident occurred while the defendant, PATRICK S IANIRO, was the operator of a motor vehicle and the plaintiff, LIYA YUSUPOVA, was the operator of a motor vehicle and both vehicles struck one another causing the plaintiffs', to sustain severe and serious personal injuries.

**TENTH:** That on or about March 21, 2002 the motor vehicle operated by defendant, PARTICK S IANIRO, and the motor vehicle operated by plaintiff, LIYA YUSUPOVA, came into contact with each other.

**ELEVENTH:** That on or about March 21, 2002 the motor vehicle owned and operated by plaintiff, LIYA YUSUPOVA, and the motor vehicle operated by defendant, LIYA YUSUPOVA, came into violent contact with each other.

**TWELFTH:** As a result of the foregoing the plaintiffs' were injured.

**THIRTEENTH:** As a result of the foregoing the plaintiffs were seriously injured.

**FOURTEENTH:** The above mentioned accident was due to the carelessness, negligence, gross negligence and recklessness of the defendant by reason of one or more of the following careless, negligent, grossly negligent and recklessness acts or omissions by said defendant in that: The defendant was negligent in failing to have his motor vehicle in proper condition and repair; in failing to observe the road and more particularly the plaintiff; in failing to keep a proper and adequate look out; in being inattentive; in proceeding at an excessive, dangerous and unlawful rate of speed under the circumstances then and there existing; in driving carelessly; in failing to give the plaintiff any signal or warning of his approach; in failing to keep and maintain a safe and proper distance between his motor vehicle and other vehicles on the public highway; in failing to make proper use of steering mechanism; in failing to make proper use of braking mechanism; in failing to stop in time to avoid this occurrence; in failing to obey the traffic signals, controls and regulations; in failing to yield the right of way; in failing to have the motor vehicle under proper management and control; in driving the motor vehicle in violation of the Vehicle and Traffic Laws of the State of New York, the Code of Ordinances and various statutes applicable thereto; and in general the said defendant were otherwise careless, negligent, imprudent and hazardous in the ownership, operation, management and control of his motor vehicle.

**FIFTEENTH:** That the aforesaid accident and resulting injuries to the plaintiff were caused wholly and solely by reason of the carelessness, negligence, gross negligence and recklessness of the defendant as aforesaid, and without any negligence on the part of the plaintiff contributing in any wise thereto.

**SIXTEENTH:** As a result of the negligence, carelessness and recklessness of the defendants, the plaintiffs were rendered sick, sore, lame and disabled, and sustained injuries in or about his head, face, neck, shoulders, back, buttocks, arms, hands and wrists, muscles, tendons, ligaments and other internal and external injuries, which injuries, upon information and belief, are of a permanent nature, and as a result thereof, the plaintiffs were injured and was obliged to and actually did incur expenses for

medicines, medical, hospital care and attention, ambulance, physicians', nurses, physical therapists and Plaintiffs suffered and still suffers great physical and mental pain..

**SEVENTEENTH:** That by reason of the foregoing, the plaintiff suffered serious injuries as defined by Section 5102 (D) of the Insurance Law of the State of New York.

**EIGHTTEENTH:** That by reason thereof, the plaintiffs are entitled to recover for non-economic loss and for such economic losses as are not included within the definition of "basic economic loss" as set forth in Section 5102, Subdivision a, of the Insurance law of the State of New York.

**NINETEENTH:** That the plaintiff is a "covered person" as defined by Section 5102(d) and 5104(a), of the Insurance Law of the State of New York.

**TWENTIETH:** Any joint and several liability of the defendant is not limited to CPLR 1601, by reason of the exemptions and/or exceptions set forth in Article 16 of the CPLR.

**TWENTY FIRST:** By virtue of the foregoing, Plaintiffs have been damaged in the sum stated in the "Wherefore" clause.

**AS AND FOR A SECOND CAUSE OF ACTION**  
**ON BEHALF OF THE INFANT PLAINTIFF, JENNIFER YUSUPOVA**  
**BY HER MOTHER AND NATURAL**  
**GUARDIAN LIYA YUSUPOVA**

**TWENTY SECOND:** The infant plaintiff above named in this cause of action, repeats, reiterates and realleges each and every allegation contained in paragraphs numbered "FIRST" through "TWENTY FIRST" with the same force and effect as though more fully set forth at length.

**TWENTY THIRD:** That by reason of the foregoing, the above named plaintiff has been damaged in the sum stated in the "Wherefore" clause.

**AS AND FOR A SECOND CAUSE OF ACTION**  
**ON BEHALF OF THE INFANT PLAINTIFF, JONATHAN YUSUPOVA**  
**BY HER MOTHER AND NATURAL**  
**GUARDIAN LIYA YUSUPOVA**

**TWENTY FOURTH:** The infant plaintiff above named in this cause of action, repeats, reiterates and realleges each and every allegation contained in paragraphs

numbered "FIRST" through "TWENTY FIRST" with the same force and effect as though more fully set forth at length.

**TWENTY FIFTH:** That by reason of the foregoing, the above named plaintiff has been damaged in the sum stated in the "Wherefore" clause.

**AS AND FOR A FOURTH CAUSE OF ACTION  
FOR PROPERTY DAMAGE ON BEHALF OF  
PLAINTIFF, DAVID L. YUSUPOVA**

**TWENTY SIXTH:** The plaintiff above named in this cause of action, repeats, reiterates and realleges each and every allegation contained in paragraphs numbered "FIRST" through "TWENTY FIRST" with the same force and effect as though more fully set forth at length.

**TWENTY SEVENTH:** That by reason of the foregoing, the plaintiff above named in this cause of action, was damaged when her motor vehicle and various parts of same were broken, bent damaged and impaired, and said motor vehicle was rendered unfit and unsafe for use.

**TWENTY EIGHTH:** That by reason of the foregoing, the plaintiff has been damaged in the sum stated in the "Wherefore" clause.

**WHEREFORE**, plaintiff demands judgment against defendants, together with the costs and disbursements of each cause of action, as follows:

Plaintiff, in the First Cause of Action demands the sum of **FIVE MILLION (\$5,000,000.00) DOLLARS**.

Plaintiff, in the Second Cause of Action, demands the sum of **FIVE MILLION (\$5,000,000.00) DOLLARS**.

Plaintiff, in the Third Cause of Action, demands the sum of **FIVE MILLION (\$5,000,000.00) DOLLARS**.

Plaintiff in the Fourth Cause of Action, demands the sum of **FIVE THOUSAND (\$5,000.00) DOLLARS**.

Dated: Brooklyn, New York  
May 13, 2003

Yours etc.,

LAW OFFICES OF  
ILYA Z. KLEYNERMAN, PLLC  
Attorney for Plaintiff  
Office & Post Office Address  
1075 Bay Ridge Avenue  
Brooklyn, New York 11219  
(718) 759-1909